

EXHIBIT D

**Warrant Article to Rezone the Reeves Hill Site
as a Planned Wireless Communications Services District**

**Article
(Requires 2/3 vote)**

To see if the Town will vote to amend the zoning bylaw and zoning map as follows:

- A. Insert under section 198-302.1.8 a new section 198-302.1.9 as follows:
- 302.1.9. A Planned Wireless Communications Services District that includes the land on Reeves Hill, so-called, as shown on Plate 34 of the Atlas of the Town of Wayland, Massachusetts, 1996, numbered as Parcels 34-026, 34-027, and 34-026A , and as shown on the plan entitled "Town of Wayland Planned Wireless Communications Services Zoning Overlay District," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated _____, 2005, a copy of which is on file in the office of the Town Clerk.
- B. Add the Planned Wireless Communications Services District to the Zoning Map.
- C. Insert after Article 15 (Wireless Services District) a new Article 15A (Planned Wireless Communications Services District) as follows:

ARTICLE 15A

Planned Wireless Communications Services District

- § 198-1550. Purpose
- § 198-1551. Location
- § 198-1552 Use Restrictions
- § 198-1553 Design Restrictions
- § 198-1554 Contents of Application
- § 198-1555 Liability Insurance; Removal and Removal Bond
- § 198-1556 Applicable Provisions
- § 198-1557 Town-Owned Emergency Equipment
- § 198-1558 Modification of Permitted Facilities

§ 198-1550. Purpose

- 1550.1. For the purposes of this Article 15A, “wireless communications facility” shall have the same meaning as in section 198-104.2, and “wireless communications services” shall have the same meaning as in section 198-1501.1. The purpose of this Article is to establish a district on or near the top of a geographically prominent hill in the Town, which has long been the subject of study and planning for wireless use in the Town, and in which wireless communications services may be provided while preserving and protecting the public health, safety and general welfare, while fulfilling the purposes of the Federal Telecommunications Act regarding provision of personal wireless services to the area capable of being served by the Planned Wireless Communications Services District and minimizing the number of wireless communications facilities in the Town. The Planned Wireless Communications Services District has been created specifically to protect the general public from hazards, minimize visual impacts, protect the scenic, historic, natural and human-made resources of the Town and protect property values.

§ 198-1551. Location

- 1551.1 The Planned Wireless Communications Services District shall be located on land on Reeves Hill, so-called, as shown on Plate 34 of the Atlas of the Town of Wayland, Massachusetts, 1996, numbered as Parcels 34-026, 34-027, and 34-026A , and as shown on the plan entitled "Town of Wayland Planned Wireless Communications Services Zoning Overlay District," Survey Department, 41 Cochituate Road, Wayland, MA 01778, dated _____, 2005, a copy of which is on file in the office of the Town Clerk.
- 1551.2 The Planned Wireless Communications Services District shall be construed as an overlay district with regard to said locations. In the Planned Wireless Communications Services District, all requirements of the underlying zoning district shall apply to uses other than a wireless communications facility or facilities; and the use and design restrictions of the Planned Wireless Communications Services District shall specifically apply to all wireless communications facilities.

§ 198-1552 Use Restrictions

- 1552.1 One wireless communications monopole may be constructed, operated, maintained and used by up to four wireless carriers in the

Planned Wireless Communications Services District as of right, upon the issuance of a building permit therefor, provided that the proposed facility complies with the requirements of the State Building Code, 780 CMR, as applicable, plans entitled “Reeves Hill Wireless Communications Facility” prepared by _____, dated _____, 2005, on file with the Wayland Town Clerk (“Plans”), and with the Design Restrictions set forth below. A wireless communications facility conforming to the requirements of Article 15A may be constructed, operated, maintained and used in the Planned Wireless Communications Services District without the need for a special permit pursuant to section 198-203 and without the need for site plan approval under Article 6 of this Zoning Bylaw.

§ 198-1553 Design Restrictions

- 1553.1 A wireless communications facility in the Planned Wireless Communications Services District shall conform to the design restrictions set forth in this section.
- 1553.2 A free-standing wireless communications facility in the Planned Wireless Communications Services District shall be designed as a monopole tower with internally or closely (“flush”) mounted antenna panels (with appropriate allowance for antenna tilting to meet coverage objectives consistent with minimizing adverse visual impact of the antennas) except as provided in section 1557.1 regarding equipment of the Town.
- 1553.3 Except as provided in sections 198-1557 and 198-1558 of Article 15A, the maximum height of the monopole shall be 180 feet above ground level at the base of the monopole.
- 1553.4 A wireless communications monopole in the Planned Wireless Communications Services District shall be designed to conform to all applicable state structural and engineering codes, including, but not limited to the State Building Code, 780 CMR.
- 1553.5 [The relevant agreed conditions from Exhibit F to the Final Agreement for Judgment, entitled “Conditions for Plaintiffs’ Tower Facility at Reeves Hill Site” shall be inserted into the Bylaw prior to enactment , with formatting appropriate for bylaw provisions]

§ 198-1554 Contents of Application

1554.1 The application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall contain all of the information ordinarily required for a building permit for a communications tower or other unmanned structure, as applicable, provided however that the Plans identified in section 198-1552.1 shall be in lieu of an approved site plan for the proposed facility.

1554.2 Construction drawings for the proposed facility shall be consistent with the Plans identified in section 198-1552.1, and shall be stamped by a Massachusetts registered professional engineer.

1554.3 The application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall be made by or on behalf of: (i) an FCC-licensed wireless communications carrier; or (ii) by a tower building company or other person or entity having a binding lease or other agreement with at least one FCC-licensed wireless communications carrier to locate on the tower at the time it is constructed.

1554.4 The application for a building permit for a wireless communications facility in the Planned Wireless Communications Services District shall include a copy of the publicly available manufacturer's specification sheets for (i) the antennas, cables, and other equipment to be internally or flush mounted on the tower, and (ii) each equipment cabinet or equipment shelter proposed to be used for ground equipment within the fenced equipment compound at the base of the tower.

§ 198-1555 Liability Insurance; Removal and Removal Bond

1555.1 The tower owner and each of its tenants will carry during the term of their use the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) commercial general liability insurance with a minimum limit of liability of \$5,000,000 combined single limit for bodily injury or death/property damage arising out of any one occurrence, naming the Town of Wayland as an additional insured if permitted by the insurer; and (iii) Workers' Compensation Insurance as required by law. Annual proof of the insurance must be filed with the Town Clerk.

1555.2 Except as provided in section 198-1557.3, within six (6) months of the termination of the use of the tower, the tower owner and its tenants will remove all of their respective above-ground

improvements and the tower owner will restore the site to its condition at the commencement of the tower use, reasonable wear and tear and loss by casualty or other causes beyond its control excepted. The tower owner and its tenants will be responsible for reasonably replacing trees, shrubs and other vegetation at the site, but will not be required to remove from the site any below ground foundations or underground utilities.

1555.3 To ensure removal of the tower after termination of use of the tower, the tower owner must obtain a performance bond or other form of financial security, in an amount consistent with a removal cost estimate stamped by a Massachusetts registered professional engineer and deposit it with the Town, to be used for removal and site-restoration costs in the event that the Applicants fail to comply. The tower owner also agrees to allow the Town and its agents and employees the right to enter the property for the purpose of removing the monopole in the event that it is not removed after such cessation of use.

§ 198-1556 Applicable Provisions

1556.1 Section 198-1510 (Exemptions) shall also apply to this Article 15A.

§ 198-1557 Town-Owned Emergency Equipment

1557.1 The owner of any free-standing wireless communications monopole in the Planned Wireless Communications Services District shall permit the Town of Wayland, without charge, to mount antennas and equipment for the Wayland police department, fire department or other Town emergency services on and next to the tower; provided that (i) said Town antennas and equipment shall not interfere with pre-existing wireless communications services on the monopole, and (ii) the Town shall pay any costs associated with the installation of the Town's antennas and equipment.

1557.2 Town antennas mounted on the monopole may extend up to twenty feet above the top of the permitted height of the monopole and need not be closely-mounted to the monopole.

1557.3 In the event of termination, for a continuous period of six (6) months or more, of the use of the tower by all users except for the Town of Wayland, the tower owner may in lieu of removal of the tower convey the tower free of charge to the Town of Wayland, subject to the acceptance of the tower by the Town. In the event

that the Town accepts the tower under this provision, the bond referred to in section 1555.3 shall thereupon be returned to the tower owner.

§ 198-1558 Modification of Permitted Facilities

1558.1 Any equipment permitted for a wireless communications facility in the Planned Wireless Communications Services District may be replaced with equal or similar brands or models and may be upgraded to newer or technically superior brands or models so long as there is no change in the monopole design or increase in signal strength, and if a building permit is required, upon the issuance of a building permit. Upon request of the Building Commissioner, made not more frequently than once per year, each carrier shall provide updated specifications as to its equipment on the monopole in the Planned Wireless Communications Services District.

1558.2 A major modification to an existing wireless communications facility in the Planned Wireless Communications Services District shall consist of (i) a change in number of buildings or equipment cabinets located on the site compared to that shown on the Plans identified in section 198-1552, (ii) an increase in the height of the monopole compared to that shown on the Plans identified in section 198-1552.1, or (iii) an addition to the externally-visible equipment including the number of antennas on the monopole compared to that shown on the Plans identified in section 198-1552.1.

1558.3 A major modification to an existing wireless communications facility in the Planned Wireless Communications Services District shall require Site Plan Approval from the Planning Board under Article 6 of the Zoning Bylaw and a building permit from the Building Commissioner.

- D. Insert in section 198-701.1.2 the words “or Article 15A” after “Article 15” so that the section as amended reads as follows:

701.1.2. The limitations of height in feet shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other necessary features usually carried above roofs, nor to towers or spires of churches and other buildings, if such features are in no way used for living purposes; provided, however, that no wireless communications facility shall be erected except in compliance with Article 15 or Article 15A.

(Petition of the Board of Selectmen)

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